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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/156,562 11/22/93 GREGORY

C 26105FLFGRM

BROWN, P EXAMINER

35M1/0411

ART UNIT	PAPER NUMBER
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3507 7

DATE MAILED: 04/11/95

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

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- ☒ This application has been examined ☒ Responsive to communication filed on 2/2/95 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133.

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input checked="" type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

- ☒ Claims 1-11, 14-25, 27-32 are pending in the application.
Of the above, claims 9, 10, 18-25, 27-31 are withdrawn from consideration.
- ☐ Claims _____ have been cancelled.
- ☐ Claims _____ are allowed.
- ☒ Claims 1-8, 11, 14-17 and 32 are rejected.
- ☐ Claims _____ are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.
- ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
- ☐ Formal drawings are required in response to this Office action.
- ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
- ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
- ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).
- ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.
- ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
- ☐ Other _____

EXAMINER'S ACTION

Art Unit: 3507

1. Claims 9,10,18-25 and 27-31 have been withdrawn from further consideration by the examiner, 37 C.F.R. § 1.142(b) as being drawn to a nonelected species. Note that the recitation in claims 9 and 10 that the second porous member is mono-directional and includes channels would appear to read on figures 9 and 10, non-elected embodiments, as does the recitation in claim 18 that the flexible seat covering has an interface with the plurality of channels.

Election was made **without** traverse in Paper No. 6.

2. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

3. Claims 1-8, 11, 14-17, and 32 are rejected under 35 U.S.C. § 103 as being unpatentable over Benzick in view of Feher.

Benzick (figs. 1-3) discloses a ventilated seat cushion as claimed, including a support member 17, an inlet 16, a plurality of channels 21, a first porous member 20 and second porous member 19.

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While a seat cover is not shown, the use of a porous cover ins such ventilated seat applications taught to be old and well known in the art by Feher, and to have utilized such on the seat cushion of Benzick would have been obvious.

The materials comprising the different layers of material is considered a matter of design choice and obvious mechanical expediency.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hake, Watsky, and Liou show various ventilated seat members.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Brown whose telephone number is (703) 308-2168.


PETER R. BROWN
PRIMARY EXAMINER
ART UNIT 357

prb
March 31, 1995